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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/182,850 01/18/94 WEINGARDT

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PIERCE, W EXAMINER

F3M1/0318

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ART UNIT	PAPER NUMBER
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3304

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DATE MAILED: 03/18/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 5 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ _____

Part II SUMMARY OF ACTION

- ☒ Claims 1-12 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1-12 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the method of play as set forth in claims 10-12 must be shown or the feature cancelled from the claim. No new matter should be entered. Such subject matter can be readily shown with a flow chart.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Simpson. Applicants' claim is paraphrased with examiners' interpretation in brackets [].

As to claim 1, Simpson shows;

a) a plurality of numbered spaces...[Fig. 1 shows a 10x10 matrix.]

b) a first indicia [12] designating a portion of the matrix comprising five contiguous rows and five contiguous columns...[Shown by the spaces in the upper right hand corner of the matrix shown in Fig. 1]

c) a second indicia [11] designating a portion of the matrix comprising two contiguous rows and two contiguous columns...[Shown in the upper left corner of the matrix shown in Fig. 1]

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not

identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 2-9 are rejected under 35 U.S.C. § 103 as being unpatentable over Simpson in view of Parker.

Claim 2, is interpreted as claim 1 above with the exception that Simpson show a pack of cards instead of a plurality of bingo balls. It is commonly practiced to use balls as calling pieces. However, cards and discs having indicia are known equivalents in the art as is evident by page 2, lines 96-106 of Parker. To have replaced the card calling pieces of Simpson with that of bingo balls would have been an obvious matter of replacing one known calling piece for that of another. No particular problem has been solve and no unexpected results have been achieved.

As to claim 3, Simpson shows one hundred calling pieces or cards.

As to claims 4, 6 and 8, Simpson shows a first portion of 25 calling pieces having a first yellow indicia, a second portion of the calling pieces are marked with a second blue indicia and a third portion of the calling pieces are marked with a third "wild"

indicia as shown in fig. 3.

Although Simpson does not show a strip for the third indicia as set forth in claims 5, 7 and 9, he does show indicia with the word "wild". It has long been held as obvious to change printed matter as a design choice. Therefore, since it follows that the claimed strip can be any form of indicia, such as a third color, a letter, a picture or the like, to have made the "wild" of Simpson a stripe would have been an obvious matter of choice and a mere rearrangement of printed matter.

Claims 10-12 rejected under 35 U.S.C. § 103 as being unpatentable over Simpson in view of Parker and further in view of "Scarne's Complete Guide to Gambling". Steps a) and b) of claim 10 are interpreted as claims 1-9 above. For the steps of wagering and awarding preselected prizes, the teachings Keno are relied upon. The similarities of keno and bingo are well known as set forth on pages 184-186 of Scarne's. In keno, numbers to win are selected and a wager is placed. An amount according to the odds are paid out if ones numbers are called. See Race Horse Keno in Scarne's. To have combined the known wagering steps of Keno with the Bingo cards of Simpson would have been obvious in order to allow a player to play a wagering game. As required by claims 11 and 12, progressive jackpots are known to Bingo as set forth on page 191 of Scarne's

Claims 4-9 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point

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Art Unit 3304


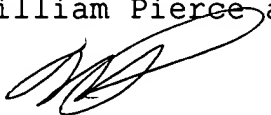
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out and distinctly claim the subject matter which applicant regards as the invention. In claims 4, 6 and 8, "a first portion...second portion...and a third portion" are not clear. one cannot determine if the scope of the claim addresses a "portion of the 75 balls as set forth in claim 3" or "a portion of the whole surface of a ball."

One cannot determine the steps required by a "progressive jackpot" as set forth in claims 11 and 12.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pizur and Willson show Bingo type games.

Any inquiry concerning this communication should be directed to William Pierce at telephone number (703) 308-0858.



Vincent Millin
Primary Examiner